

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Trevor Hackett	Team: Squad #13	CCRB Case #: 201905264	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/16/2019 5:30 PM	Location of Incident: Givan Avenue and Baychester Avenue	Precinct: 47	18 Mo. SOL 12/16/2020	EO SOL 8/2/2021	
Date/Time CV Reported Mon, 06/17/2019 2:36 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/17/2019 2:36 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christian Doherty	16800	963965	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Coiro	11622	955828	047 PCT
2. SGT Victor Genao	04018	930207	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christian Doherty	Abuse: Police Officer Christian Doherty stopped § 87(2)(b)	
B.POM Christian Doherty	Abuse: Police Officer Christian Doherty searched the vehicle in which § 87(2)(b) Kendrick § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Christian Doherty	Abuse: Police Officer Christian Doherty threatened to arrest § 87(2)(b)	
D.POM Christian Doherty	Discourtesy: Police Officer Christian Doherty spoke discourteously to § 87(2)(b)	
E.POM Christian Doherty	Discourtesy: Police Officer Christian Doherty spoke discourteously to § 87(2)(b)	
F.POM Christian Doherty	Discourtesy: Police Officer Christian Doherty spoke discourteously to § 87(2)(b)	
G.POM Christian Doherty	Discourtesy: Police Officer Christian Doherty spoke discourteously to § 87(2)(b)	

### Case Summary

On June 17, 2019, § 87(2)(b) filed this complaint with the CCRB over the phone.

On June 16, 2019, at 5:30 p.m., § 87(2)(b) was driving his car with three passengers, § 87(2)(b) and § 87(2)(b) when, at the intersection of Baychester Avenue and Givan Avenue in the Bronx, his vehicle was involved in a traffic accident with a police vehicle, which was occupied by PO Christian Doherty and PO Michael Coiro of the 47<sup>th</sup> Precinct. PO Doherty stopped § 87(2)(b) (**Allegation A – Abuse of Authority, § 87(2)(g)**) and searched § 87(2)(b)'s car (**Allegation B – Abuse of Authority, § 87(2)(g)**). PO Doherty threatened to arrest § 87(2)(b) (**Allegation C – Abuse of Authority, § 87(2)(g)**) and spoke discourteously to § 87(2)(b) and his passengers. (**Allegation D, E, F, G – Discourtesy, § 87(2)(g)**).

Body Worn Camera footage from PO Doherty and Sgt. Victor Genao of the 47<sup>th</sup> Precinct, who arrived to complete an accident report, was obtained and is located in IAs # 62, 76, and 77 (**Board Review 01, 02, 03**). The summaries can be found in IAs # 63, 82, and 83 (**Board Review 04, 05, 06**).

No arrest or summons resulted from this incident.

### Findings and Recommendations

**Allegation A: Abuse of Authority, Police Officer Christian Doherty stopped § 87(2)(b).**

**Allegation B: Abuse of Authority – Police Officer Christian Doherty searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

All four car occupants were consistent in saying that immediately after the motor vehicle accident, PO Doherty ordered them to exit § 87(2)(b)'s car and stand on the sidewalk. They all alleged that PO Doherty searched § 87(2)(b)'s car, though the circumstances and parameters of the search differed between car occupants. § 87(2)(b) testified that he saw PO Doherty enter his car through the front passenger door and search the center console. § 87(2)(b) approached PO Doherty and asked why he was searching his car. PO Doherty, who was now holding § 87(2)(b)'s registration and insurance card, told § 87(2)(b) that he had been looking for his documentation. At that time, § 87(2)(b) noticed that his glove compartment had been opened. PO Doherty ordered § 87(2)(b) to produce his license and § 87(2)(b) complied. PO Doherty returned to the police vehicle (**Board Review 07**). § 87(2)(b) testified that PO Doherty ordered § 87(2)(b) to produce his license and registration and § 87(2)(b) provided his license but told PO Doherty that his registration was in the car. PO Doherty asked § 87(2)(b) where specifically his registration was, and § 87(2)(b) said that it was in the glove compartment. PO Doherty entered § 87(2)(b)'s car through the front passenger door and retrieved § 87(2)(b)'s registration from the glove compartment. § 87(2)(b) did not recall seeing PO Doherty search any other area of the car (**Board Review 08**).

§ 87(2)(b) and § 87(2)(b) provided brief phone statements but were otherwise uncooperative with the investigation (See IAs for contact attempts). § 87(2)(b) said PO Doherty approached § 87(2)(b)'s empty car and entered through the front passenger side. § 87(2)(b) was speaking with PO Doherty as PO Doherty searched the vehicle, which took approximately five minutes (**Board Review 09**). § 87(2)(b) said § 87(2)(b) reentered his vehicle and PO Doherty ordered him to exit (See allegation B). § 87(2)(b) ultimately complied. § 87(2)(b) Landry then saw PO Doherty enter § 87(2)(b)'s car and sit in the driver's seat. § 87(2)(b) Landry did not see specifically what PO Doherty did while inside the car. One of the car occupants, § 87(2)(b) did

not specify which, asked PO Doherty why he was searching the car and PO Doherty said it was procedure to do so (**Board Review 10**).

The investigation identified the driver of another vehicle present at the scene at the time of the motor vehicle accident. § 87(2)(b) provided a phone statement and corroborated that PO Doherty approached § 87(2)(b)'s car, asked if everyone was ok, and ordered § 87(2)(b) and the other passengers to stand on the sidewalk. PO Doherty briefly spoke to the civilians on the sidewalk, then returned to the police vehicle and spoke with PO Coiro. PO Doherty then approached and interviewed § 87(2)(b) about the motor vehicle accident, at which point, § 87(2)(b) left. § 87(2)(b) denied witnessing PO Doherty enter or search § 87(2)(b)'s car (**Board Review 11**).

PO Doherty's Body Worn Camera footage shows that, between 01:56 and 02:46 on the media player, visible at the bottom of the screen, PO Doherty tells § 87(2)(b) that his car smells like marijuana. PO Doherty asks § 87(2)(b) where the marijuana is and if he smoked. § 87(2)(b) walks back to his car with PO Doherty and says, "I think it's probably done." § 87(2)(b) leans into the front passenger side of the car and says, "it's done." PO Doherty says, "let me see it." The footage does not capture any marijuana, nor does it capture § 87(2)(b) handing anything to PO Doherty. (Though this incident started as a car accident, the investigation determined that PO Doherty suspected § 87(2)(b)'s car contained marijuana, had § 87(2)(b) produce identification, and questioned § 87(2)(b) regarding the marijuana. Therefore, Allegation A is pled to address the stop of § 87(2)(b).

PO Doherty testified that he approached § 87(2)(b)'s car and asked the occupants if they were okay. PO Doherty then interviewed § 87(2)(b) stated that prior to the accident, § 87(2)(b) had been speeding and driving erratically. PO Doherty approached § 87(2)(b)'s car and smelled the odor of burnt marijuana coming from the car. PO Doherty asked § 87(2)(b) if he was smoking prior to the accident. § 87(2)(b) said he and the other passengers had "smoked it already." PO Doherty ordered § 87(2)(b) and the other passengers to exit the vehicle. § 87(2)(b) and his friends complied and went to the sidewalk. PO Doherty ordered § 87(2)(b) to produce his license and registration. § 87(2)(b) provided his license and told PO Doherty that his registration was in the car. PO Doherty told § 87(2)(b) that he would retrieve his registration. PO Doherty decided to retrieve § 87(2)(b)'s registration himself to prevent § 87(2)(b) from tampering with any evidence. PO Doherty searched § 87(2)(b)'s car for marijuana in the areas where the civilians had been sitting and retrieved § 87(2)(b)'s registration and insurance from the glove box. PO Doherty could not recall specifically what other areas he searched. Sgt. Genao arrived at the location and completed an accident report. PO Doherty told Sgt. Genao that § 87(2)(b) had admitted to smoking marijuana prior to the motor vehicle accident but did not know if Sgt. Genao took any action regarding this. PO Doherty and PO Coiro then returned to the stationhouse to drop off their equipment before going to the hospital. (**Board Review 12**).

PO Coiro testified that he remained inside the police vehicle throughout the incident because his door was pinned shut as a result of the motor vehicle accident. § 87(2)(b)'s car was located behind the police vehicle on the passenger side. PO Coiro saw PO Doherty interacting with § 87(2)(b) and the other occupants but could not hear anything that was said. When PO Doherty returned to the police vehicle, he told PO Coiro that § 87(2)(b)'s car smelled of marijuana, that § 87(2)(b) had admitted to smoking marijuana, and that he had § 87(2)(b)'s admission on his Body Worn Camera. PO Doherty provided PO Coiro with § 87(2)(b)'s license to run it for warrants. § 87(2)(b) began walking back to his car and PO Doherty ordered him not to reenter his car (See Allegation B). § 87(2)(b) and PO Doherty spoke more before PO Doherty

approached § 87(2)(b)'s car and entered it through one of the front doors. PO Coiro could not recall specifically which parts of the car PO Doherty searched other than the front seats. PO Coiro could not recall if PO Doherty recovered marijuana from § 87(2)(b)'s car (**Board Review 13**).

People v. Debour, (40 N.Y. 2d 210, 1976) states that to stop an individual, an officer must have reasonable suspicion that the individual is committing, has committed or is about commit a crime (**Board Review 14**). People v. Chestnut, (43 A.D. 2d 260, 1974) states that the smell of marijuana is sufficient to provide officers with probable cause to search a vehicle and its occupants (**Board Review 15**).

§ 87(2)(g)

#### **Allegation C: Abuse of Authority – Police Officer Christian Doherty threatened to arrest**

§ 87(2)(b)

§ 87(2)(b) testified that after searching his car, PO Doherty returned to the police vehicle with § 87(2)(b)'s documentation. § 87(2)(b) reentered his car, turned off the engine, and began cleaning up items that had fallen from the side pockets of the interior doors, specifically water bottles. PO Doherty approached § 87(2)(b)'s car and ordered him to exit. § 87(2)(b) did not comply. PO Doherty ordered § 87(2)(b) several more times to get out of the car and said that if he did not, he would be arrested. § 87(2)(b) ultimately exited the car voluntarily.

§ 87(2)(b)'s statement was generally consistent with § 87(2)(b)'s. He said that § 87(2)(b) and PO Doherty argued, and PO Doherty told § 87(2)(b) that he could be arrested.

§ 87(2)(b) did not know if PO Doherty threatened to arrest § 87(2)(b) but heard § 87(2)(b) repeatedly say to PO Doherty, "Arrest me for what?" § 87(2)(b) denied hearing PO Doherty threaten to arrest § 87(2)(b).

§ 87(2)(b) stated that she could not recall what was said between PO Doherty and PO § 87(2)(b). § 87(2)(b) left after being interviewed by PO Doherty and was not present when the threat of arrest is alleged to have occurred.

PO Doherty testified that following the search of § 87(2)(b)'s car, he returned to the police vehicle to contact his supervisor. PO Doherty saw § 87(2)(b) reenter his car and ordered him to exit because of the possibility that there was additional contraband in the car. § 87(2)(b) did not immediately comply, and PO Doherty said that if he did not exit the car, he would be arrested. § 87(2)(b) complied and returned to the sidewalk. PO Doherty stated that § 87(2)(b) could have been arrested for Obstructing Governmental Administration for reentering and refusing to leave his car.

New York State Penal Law, Section 195.05 states that a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function (**Board Review 16**).

§ 87(2)(b) acknowledged reentering his car and moving items on the floor and as stated above,

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**Allegation D: Discourtesy – Police Officer Christian Doherty spoke discourteously to**

§ 87(2)(b)

**Allegation E: Discourtesy – Police Officer Christian Doherty spoke discourteously to** § 87(2)(b)

§ 87(2)(b)

**Allegation F: Discourtesy – Police Officer Christian Doherty spoke discourteously to** § 87(2)(b)

§ 87(2)(b)

**Allegation G: Discourtesy – PO Christian Doherty spoke discourteously to** § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) all alleged PO Doherty used profanity during the incident. However, the exact statements and when they were alleged to have occurred differ.

§ 87(2)(b) and § 87(2)(b) said that after § 87(2)(b) reentered his car, PO Doherty said either “Get out of the fucking car,” or “Get the fuck out of the car.” § 87(2)(b) said he ultimately exited his car and was walking back to the sidewalk when he heard PO Doherty say something else that included the word “fuck.” § 87(2)(b) believed that PO Doherty used profanity other times during the incident but could not recall specifically when or what was said. § 87(2)(b) testified that after the accident, PO Doherty approached § 87(2)(b)’s car and said to the occupants, “Get out of the fucking car.” § 87(2)(b) and the other occupants exited the car and went to the sidewalk. PO Doherty continued to curse, but § 87(2)(b) could not recall specifically what he said. § 87(2)(b) said that PO Doherty did not use any profanity during the incident. § 87(2)(b) was standing next to the passenger side of § 87(2)(b)’s car when § 87(2)(b) and PO Doherty were arguing.

§ 87(2)(b) denied hearing PO Doherty use profanity, though she did not recall what was said between the car occupants and PO Doherty.

PO Doherty did not recall using any profanity during the incident. PO Coiro testified that he could not hear anything that was said between PO Doherty and the civilians during the incident.

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**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (**Board Review 17, 18, 19, 20**).
- PO Doherty has been a member of service for two years and has been a subject in one additional CCRB complaint and one additional allegation, which was not substantiated. § 87(2)(b)

§ 87(2)(b)  
§ 87(2)(b)

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming serious and

permanent personal injuries and severe shock, and he is seeking an unspecified amount which exceeds the jurisdictional limits of all lower court which would otherwise have jurisdiction, together with interest, costs and disbursements of this action and such other and further relief as may seem just and proper (**Board Review 21**).

- On February 13, 2019, a Notice of Claim inquiry was sent to the NYC Office of the Comptroller for § 87(2)(b) and § 87(2)(b) and will be added to the case file upon its receipt.
- § 87(2)(c) (impair contract awards or CBAs), § 87(2)(b)
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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date